

## CLIENT ALERT

### Treasury to IRS: LB&I Campaigns Are Not Meeting Expectations

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The IRS Large Business and International Division campaign program is not meeting initial expectations, according to a recent report by the Treasury Inspector General for Tax Administration (TIGTA). Noting that LB&I touted the campaign program as a paradigm shift, TIGTA found that only a small portion of the LB&I inventory of cases was generated by campaigns, with the remainder still arising through traditional audit selection methods. Moreover, TIGTA found that some implemented campaigns—where selection was not based on compliance risk—were not as productive as LB&I’s general examinations. As a result, TIGTA recommended that LB&I formalize the use of compliance data and data analytics in selection of future campaigns. It is premature to label the campaign program as a failure, but, according to the TIGTA report, LB&I has a long way to go before campaigns will solve the resource constraints they were intended to address.

#### Background

Since at least 2010, LB&I has discussed shifting its focus in examinations to specific issues, as opposed to a general audit of a tax return. In 2017, LB&I announced its campaign program, which focuses on specific compliance issues. So far, LB&I has identified 54 campaigns.

TIGTA reviewed the LB&I campaigns to assess LB&I’s methodology for identification and selection of campaigns. TIGTA released its findings in the report *Initial Compliance Results Warrant a More Data-Driven Approach to Campaign Issue Selection*, dated September 27, 2019. The report was released on October 24, 2019 and is available [here](#).

The report addresses two issues: (1) the role of campaigns in inventory selection, and (2) how LB&I selected campaigns.

#### Campaigns not driving inventory selection

When LB&I announced its new issue-focused audit paradigm, LB&I expected the campaigns to largely replace traditional inventory selection methods. However, the TIGTA report concluded that initial expectations appear to have been overstated. As of February 2019, only 15 percent of LB&I’s inventory was generated by campaigns. The remaining inventory was selected through traditional methods (*e.g.*, Compliance Assurance Process, Coordinated Industry Case Program, Discriminate Analysis System scoring).

Although campaigns may not be meeting LB&I’s initial expectations, their role is growing. In September 2018, only six percent of LB&I’s inventory was generated by campaigns—but that figure more than doubled by February 2019.

TIGTA reports that LB&I currently has 38 campaigns in some stage of build-out, and 169 submissions under review and assessment. The number of issues submitted for assessment as potential campaigns dropped from 730 in 2016 (the initial year), to 194 in 2017, to 51 in 2018, although this drop likely was influenced by the assignment of LB&I personnel to work on tax reform.

## **Campaigns not selected based on compliance risk**

When LB&I selected campaigns, it did not focus on the most significant compliance issues facing the IRS. Instead, the TIGTA report found, campaigns were selected based on employee recommendations and pre-existing compliance efforts. In many cases, LB&I simply selected issues that were already well known, for which training was already in place, and would not be difficult to set up. Of the first 54 campaigns, 24 were employee recommendations and 23 were previously organized compliance efforts. As LB&I acknowledged, many of these early campaigns did not focus LB&I's limited resources on the areas where they could be most productive.

The report includes analysis of the early results of 18 of the first 24 campaigns, including issues audited, adjustments agreed, hours per return, and yield. Unfortunately, those statistics are redacted in the public versions of the report and are available only to LB&I. Nonetheless, the report states that some of the campaigns were less productive than normal examinations, and that the statistics as a whole do not support that LB&I has delivered better work through campaigns. TIGTA appears to believe that these results are largely attributable to campaign selection.

The report criticized LB&I for not selecting or prioritizing campaigns based on past compliance results or potential impact on compliance. Given LB&I's diminished examination resources, TIGTA stated that "it should be even more focused on emphasizing areas that have the highest compliance risk."

TIGTA recommended that LB&I create a formal process of using past compliance results and potential impact on compliance to select and prioritize campaigns. TIGTA also recommended that LB&I use actionable metrics and measures to evaluate results and ensure that LB&I resources are directed towards the areas where they can be most productive. In its response to the TIGTA report, LB&I agreed that it should focus on issues with the highest compliance risk, but said it would not focus campaigns solely on those issues. LB&I said it is important to "broadly allocate our compliance resources to have a positive impact across all areas of non-compliance and to tailor resource allocations to the level of compliance risk present."

## **What it means for taxpayers**

Big data is coming. LB&I taxpayers should expect renewed focus on issues with high compliance risk common to many taxpayers, or "big dollar" issues where the IRS has had success in the past. This is what many expected when the campaign approach was initially announced, and the TIGTA report will push LB&I in that direction. On the other hand, the TIGTA report documents that general audits of LB&I tax returns have not gone away. Campaigns are unlikely to replace normal audit selection and case development as the primary source of LB&I inventory any time soon.

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